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REMARKS

Claims 14-50 are now present in this application.

The abstract and specification have been amended, claims 1-13 have been cancelled without prejudice or disclaimer, and claims 36-50 have been presented. Reconsideration of the application, as amended, is respectfully requested.

An Information Disclosure Statement was submitted in the above-identified application on February 7, 2001. **Notification of receipt of this Information Disclosure Statement, as well as consideration of the Swedish document cited therein by the Examiner, are respectfully requested.**

A Letter to the Official Draftsperson with ten (10) sheets of corrected formal drawings was filed on October 24, 2000. **Notification of receipt of these drawings, as well as their approval by both the Examiner and Official Draftsperson are respectfully requested.**

A certified copy of the priority document was submitted in the above-identified application on October 24, 2000. **Notification of receipt of receipt of the certified copy and acknowledgement of the claim for priority are respectfully requested.**

Claims 1-6 and 10 stand rejected under 35 USC 102(b) as being clearly anticipated by RUTTER et al., U.S. Patent 4,981,374. This rejection is respectfully traversed.

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Claims 7 and 8 stand rejected under 35 USC 103 as being unpatentable over RUTTER et al. in view of WILD, WO 89/12006 and OSTENDORF, EP 524487. This rejection is respectfully traversed.

Claim 9 stands rejected under 35 USC 103 as being unpatentable over RUTTER et al. in view of WILD WO '006, and WILD, EP 380,107, and SAITO et al., EP 539,800. This rejection is respectfully traversed.

Claims 11-13 stand rejected under 35 USC 103 as being unpatentable over RUTTER et al. in view of BUCHANAN et al., WO 98/00286, JENSEN et al., U.S. Patent 4,023,607, AESBACH et al., WO 95/31329, SPIES, U.S. Patent 3,604,491, and TOYOSHIMA, JP 3-289451. This rejection is respectfully traversed.

Initially, it is noted that, in the rejection of claims 11-13, six different references have been used. While there is certainly no limit on the number of references an Examiner can use, it is questioned whether the prior art would teach the container as recited in these claims. It would appear instead that hindsight has been used in order to reconstruct multiple prior art references in order to arrive at the Applicants' invention.

Nonetheless turning to independent claim 36, it is initially noted that the patent to RUTTER et al. discloses plastic containers to be filled with fluid or pulverulent material. The contains are the type contained in a cardboard with a dispenser standing outside

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the box. These are bag-in-box packages. The container materials are arranged in a continuous web with periodically spaced apart apertures, in which tractor means are feeding the web. In the upper edge of the container, a duct means is formed. The duct means extends inwardly into the compartment of the container, whereby the upper edge of a first container and the continuous web is arranged directly adjacent the bottom edge of a following second container. Thus, no part extends outside the container. The duct means elongates in the same direction as the web. To be able to use the container, a dispenser or an adaptor for dispenser is attached to one of the walls. Before filling, a slot is made in one wall of the duct means, through which a filling nozzle is introduced. After this filling, the duct means is sealed.

Independent claim 36 of the present application recites a container with walls and duct means. The duct means is terminated with the terminal edge after manufacturing of the container. The terminal edge outside of the container is opened for filling and a new terminal edge is sealed after filling. This arrangement is discussed on page 5, lines 20-33, for example. In claim 36, the duct means extends from the compartment to the outside of the container. This is different from the arrangement of RUTTER et al., which has its duct means extending into the compartment, whereby the container has no parts extending to the outside of the

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container. Independent claim 36 is distinct from the disclosure of RUTTER et al.

It should be noted that the RUTTER patent refers to a totally different concept from the present invention. RUTTER refers to a container to be used in a bag-in-box package. The present invention, however, is for a stand-up pouch. It is not likely that a skilled artisan aiming for a new, improved stand-up pouch would turn to bag-in-box technology. It is therefore initially submitted that the patent to RUTTER is not analogous art.

Nonetheless, even assuming *in arguendo* that one skilled in the art would look to RUTTER, that person would find that the provision of a duct means extending into the compartment is an important feature, since the whole concept, from the design of the web to the design of the machine, depends on the duct means.

For example, when starting with the design of the web, the RUTTER design allows the container to be arranged in a continuous web wherein the upper edge of the first container is arranged directly adjacent to the bottom edge of a following second container. If the container should be provided with the duct means extending to the outside of the container, the same orientation and continuous web would admittedly be possible but the amount of material would increase. It is hardly likely that a skilled

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artisan would turn to such an arrangement. They would want to optimize material usage.

Further, the ducting design in RUTTER plays an important role during the filling of the container. To fill the container, a slit is cut in one wall of the duct means. A nozzle is introduced from the side through the slit. During this moving of the nozzle, a container is supported by a grip along the side edges of containers, from the bottom edge to the upper edge. This grip is essential to prevent any folding of the duct means during engagement with the nozzle. If the RUTTER duct means should be changed into a duct means extending into the outside of the container, such a container cannot be easily filled by a nozzle acting through a slit and one of the walls due to the risk of folding and spillage. Accordingly, such a duct means would require a fundamental redesign of not only the container, but also of the equipment used during the manufacture of thereof. It is respectfully submitted that the patent and the prior art would teach away from modifying RUTTER. One skilled in the art would not so modify RUTTER's device.

The present invention provides for a very simple design wherein a first terminal edge of an extending duct means is removed before filling and wherein a new terminal edge is formed after filling to seal the container. Accordingly, the container can be

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filled by introducing a nozzle in a vertical direction through the opening between the two side walls forming the duct means. These features are not suggested in the RUTTER patent.

It is respectfully submitted that teachings to RUTTER would neither suggest nor render obvious the claimed container for liquid or pulverulent contents. To modify the device of record would require a new design and new equipment. There is no suggestion for such a modification in the RUTTER patent or in the secondary references relied upon by the Examiner. It is respectfully submitted that independent claim 36 as well as the dependent claims should define a container which is neither suggested nor rendered obvious by the utilized prior art. Accordingly, it is respectfully requested that 35 USC 103 rejections now be reconsidered and withdrawn.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

Because the additional prior art cited by the Examiner has been included to merely show the state of the prior art and has not been utilized to reject the claims, no further comments concerning these documents are considered necessary at this time.

In the event there are any matters remaining in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington DC area.

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Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment: Version with Markings to Show Changes Made

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE ABSTRACT OF THE DISCLOSURE:

Please replace the Abstract of the Disclosure with the rewritten Abstract of the Disclosure located below:

--[(57)] ABSTRACT OF THE DISCLOSURE

A container for liquid or pulverulent contents has flexible walls (12,14) which are interconnected to form a closed compartment, the volume of which is dependent on the position of the walls (12,14). Two opposing side walls (12) are joined along a common connecting portion and the container has a duct [means] (16), which has a uniform composition of materials along its entire length, between the two side walls (12). The duct [means] (16) extends from the compartment to the outside of the container (10) and is sealed when the container is in an empty state before filling. [The invention also concerns a] A method and a device [for making] make the container [as well as] and a method and a device [for filling] fill the container.--

IN THE SPECIFICATION:

Please replace the paragraph beginning on page 1, line 2, with the following rewritten paragraph:



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--The present invention relates to a container [as defined in the preamble to appended claim 1], a method and a device for making a container [as defined in the preamble to claims 14 and 22, respectively], and a method and a device for filling a container [as defined in the preamble to claims 26 and 29, respectively].--

Please add the following paragraph after the paragraph ending on page 9, line 2:

--Further scope of the applicability of the present invention will become apparent from the detailed description given hereinafter. However, it should be understood that the detailed description and specific examples, while indicating preferred embodiments of the invention, are given by way of illustration only, since various changes and modifications within the spirit and scope of the invention will become apparent to those skilled in the art from this detailed description.--

IN THE CLAIMS:

Claims 1-13 have been cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 36-50 have been added.